

405 KAR 16:010. General provisions.

RELATES TO: KRS 350.020, 350.090, 350.093, 350.151, 350.405, 350.410, 350.440, 350.445, 350.450, 350.465, 30 C.F.R. Parts 730-733, 735, 816.59, 816.79, 816.99, 816.131-816.132, 917, 30 U.S.C. 1253, 1255

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.465, 30 C.F.R. Parts 730-733, 735, 816.59, 816.79, 816.99, 816.131-.132, 917, 30 U.S.C. 1253, 1255

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and administrative regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during surface mining activities and for restoration and reclamation of surface areas affected by mining activities. This administrative regulation contains general performance standards for maximizing coal recovery, protection of underground mining, prevention and correction of landslides, temporary cessation of operations, permanent abandonment of operations, and protection of unmined barriers of coal left by underground mining.

Section 1. Applicability. The provisions of this chapter are applicable to all surface mining activities conducted under 405 KAR Chapters 7 through 24. The provisions of this chapter also apply to those special categories of surface mining activities for which performance standards are set forth under 405 KAR 20:030 through 405 KAR 20:080 except to the extent that a provision of those administrative regulations specifically exempts a particular category from a particular requirement of this chapter.

Section 2. Coal Recovery. Surface mining activities shall be conducted so as to maximize the utilization and conservation of the coal, while utilizing the best appropriate technology currently available to maintain environmental integrity, so that re-affecting the land in the future through surface coal mining operations is minimized.

Section 3. Protection of Underground Mining. No surface mining activity shall be conducted within 500 feet of any point of either an active or abandoned underground mine, unless:

(1) If any of the workings of the underground mine are active, the nature, timing, and sequence of the surface mining activity are jointly approved by the cabinet, the MSHA, and the Kentucky Office of Mine Safety and Licensing; and

(2) For both active and abandoned underground mines, the surface mining activity results in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

Section 4. Slide and Erosion Barriers. An undisturbed natural barrier shall be provided beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for a minimum distance of fifteen (15) feet or greater distance as the cabinet may determine is necessary to assure stability. The barrier shall be retained in place to prevent slides and erosion.

Section 5. Slides. At any time a slide occurs which may have a potential adverse effect on property, health, safety, or the environment, the person who conducts the surface mining activities shall notify the cabinet by the fastest available means and comply with any remedial measures required by the cabinet.

Section 6. Permanent Abandonment of Operations. (1) Notice required. On or before the date of permanent abandonment of operations, the permittee shall provide written notice to the cabinet that

permanent abandonment is intended.

(2) Prior to permanent abandonment, and prior to removal of necessary equipment from the site, all affected areas shall be closed, backfilled, and otherwise permanently reclaimed in accordance with the requirements of KRS Chapter 350, the administrative regulations of 405 KAR, and the permit.

(3) All equipment, underground openings, structures, or other facilities not required for monitoring shall be removed and the affected areas reclaimed unless the cabinet approves the retention of the equipment, openings, structures, or other facilities as compatible with the postmining land use or as beneficial to environmental monitoring.

Section 7. Temporary Cessation of Operations. (1) Notice required. Prior to a temporary cessation of operations which the permittee intends to last for thirty (30) days or more, or as soon as it is known to the permittee that an existing temporary cessation will last beyond thirty (30) days, the permittee shall provide written notice to the cabinet that temporary cessation is anticipated. The notice shall state to what extent equipment will be removed from the site during the temporary cessation, and shall state the approximate date on which the permittee intends that operations will be resumed.

(2) Temporary cessation shall not relieve a permittee of the obligation to comply with 405 KAR 16:070, Section 1(1)(g) and the surface and groundwater monitoring requirements of 405 KAR 16:110, and the obligation to comply with all applicable conditions of the permit during the cessation.

(3) During temporary cessations, equipment and facilities necessary to environmental monitoring or to compliance with performance standards shall be made secure to the extent practicable.

Section 8. Protection of Unmined Barriers of Coal Left by Underground Mining. (1) Coal shall not be removed from an unmined barrier of coal left by an underground mine where the underground workings dip toward and approach the land surface, unless the cabinet has approved the proposed coal removal under this section.

(2) The cabinet shall approve the proposed coal removal if it determines that the removal meets all other applicable requirements of 405 KAR Chapters 7-24 and KRS Chapter 350 and also meets at least one (1) of paragraphs (a)-(e) of this subsection:

- (a) The removal will not adversely affect the stability of the unmined barrier of coal;
 - (b) The removal will completely eliminate or significantly reduce existing underground workings;
 - (c) The removal will eliminate or significantly reduce an existing or potential threat to the health or safety of the public resulting from the existing underground workings;
 - (d) The removal will eliminate or significantly reduce existing or potential adverse impacts to the quantity or quality of groundwater or surface water resulting from the existing underground workings;
- or

(e) The unmined barrier of coal is not necessary to protect the health or safety of the public or to protect the quantity or quality of groundwater or surface water. (8 Ky.R. 1527; eff. 1-6-1983; 12 Ky.R. 931; eff. 2-4-1986; 15 Ky.R. 453; eff. 12-13-1988; 21 Ky.R. 528; 1346; 1496; eff. 12-12-1994; TAm eff. 8-9-2007; Crt eff. 7-3-2018.)